337, 24 Am. St. Rep. 506; *Berg* v. *Neal,* 40 Ind. App. 575, 82 N. E. 802; *Phillips* v. *Dressler,* 122 Ind. 414, 24 N. E. 226; *Newsom* v. *Newsom* (Tenn. Ch.), 56 S. W. 29; *Wille* v. *Bartz,* 88 Wis. 424, 60 N. W. 789.

The right of the servient owner to erect gates across an easement of way acquired by prescription where they are not an unreasonable obstruction to the purpose for which the way has been used, appears to be well established; and "The great preponderance of convenience to the landowner over the slight inconvenience to the way owner seems to make it 'reasonable' in the eye of the law that such should be the rule." *Berg* v. *Neal, supra.*

EMINENT DOMAIN—CONSEQUENTIAL INJURIES FROM PUBLIC USE.—In a state where the constitution provided that no private property shall be taken or damaged for public use without just compensation the plaintiff's property was diminished in value through the lawful grading of a street. *Held,* the plaintiffs are entitled to damages over and above the benefits occasioned by the public improvement. *Trust Co.* v. *City of Spokane* (Wash.), 134 Pac. 927.

The great majority of cases hold that the constitutional right to compensation when private property is taken for a public use does not extend to cases of consequential injury through the lawful grading of a street. *Callender* v. *Marsh,* 1 Pick. (Mass.) 418; *Smith* v. *City of Washington,* 20 How. (U. S.) 135; *Town of Harrisonburg* v. *Roller,* 97 Va. 582, 34 S. E. 573. It has further been held, but probably on less sound reasoning, that even actual or direct damage to private property does not constitute a "taking" under the meaning of that term. *Talcott Bros.* v. *City of Des Moines,* 134 Iowa 113, 109 N. W. 311.

The injustice of depreciating the value of private property for the public good without compensation has been recognized in the majority of the states. It has been remedied by incorporating into the constitutions the phrase "or damaged;" and this addition has by the overwhelming weight of authority been held to cover consequential injuries resulting from improvements to the streets and highways. *Swift & Co.* v. *City of Newport News,* 105 Va. 108, 52 S. E. 821; *Lumber Co.* v. *Porter,* 155 Ala. 426, 46 So. 773; *Brown* v. *City of Seattle,* 5 Wash. 35, 31 Pac. 313. But see *Lieper* v. *City of Denver,* 36 Colo. 110, 85 Pac. 849, 7 L. R. A. (N. S.) 108.

EMINENT DOMAIN—DAMAGES—VALUE FOR SPECIAL USE.—Where a railroad, in order to straighten a dangerous curve in its roadbed, took by eminent domain, a portion of appellee's property, it was *Held,* in estimating the damages, the adaptability of the land for railroad purposes because of its location can be considered, but not its value to the company because of its necessity. *Oregon R. & Nav. Co.* v. *Taffe* (Ore.), 134 Pac. 1024.

The great object of the courts in awarding damages for land taken under the power of eminent domain is to assess the damages at the *"market value"* of the property, with due regard for the effect of such taking upon the remaining property of the defendant where only part of